G. R. S. 58]

Previous references.

File No. 155

1903.

Serial Nos. 1—2

(Cont)

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 — 2

Major **Part B** for August 03.

SUBJECT.

Memorial of Ramadu and Batliga praying to set aside the sentence of death passed upon them.

Sl: 1 (Cr. No 1102) 308/11 of 18.7.03 From the Regr ch. ct. Mysore

Forwards a memorial addressed to His Highness the Maharaja of Mysore by Ramadu and Batliga 1st & 4th accused in Kolar Sessions case No 5 of 02-03 on the file of the Sessions judge, Bangalore.

Sl: 2 336 of 7.8.03 To the Regr ch. ct. Mysore.

Declines to interfere with the sentence passed and returns the records received with the

Indexes — B.B.Shenoy

GPB—10,000—23-3-15

Memorial of Prisoners under Sentence of

1. ~~No. of Case.~~ Name of Prisoners — Prisoners (1) Ramadoss and (2) Ba

SECTION 65

FILE NO. 155 of 03

SERIAL NO.

No of Case -

Criminal Case No. 545 of 1902-03 Assistant Sessions Judge

on the file of the First Class Magistrate

~~and~~ Kolar Gold Fields

~~2. Court or Courts which tried it.~~

Kolar Sessions Case No. 5 of

of 1902-3 and Criminal Appeal Case

No. 135 of 1902-3 Referred on the file of the Chief Court—

Court or Courts which tried it.

the First Class Magistrate's Court, Kolar Gold Fields

~~District~~ and the Sessions Court of the

Bangalore Division.

Sentenced to death by the

Sessions judge and

3. Nature of sentence originally passed and confirmed or altered in appeal.

this sentence was

confirmed by

the Chief Court

of Mysore.

4 Date of Sentence - 20th March 1903.

~~4. Date of sentence.~~

The deceased Thimmaraya was found dead one morning on his threshing floor. There were clear marks of strangulation and mutilation, showing that he must have been murdered.

There is good evidence that the accused persons 1 to 4 had more or less strong motives for murdering him; and indeed the suspicion of the deceased's relations fell upon them immediately after the discovery of the murder. Three of the accused (1, 2 & 3) had been got into trouble by the deceased for acts of petty theft. The 2d accused had been detected making overtures to Thimmaraya's wife, & beaten by the Patel; while the 4th accused was actually keeping that woman for some years, & the fact became known to the deceased.

Besides confessions made while in Police custody (which are not admissible in evidence), the accused persons also admitted their guilt before the Committing Magistrate; and these statements, though withdrawn before the Court of Session,

are very circumstantial and bear the appearance of truth. They have also been corroborated in details not only by the evidence of the Prosecution witnesses (some of whom are close relations of the accused), but also by the fact of certain articles incidentally connected with the murder having been discovered from information given by the accused themselves.

The Chief Court had considered the evidence amply sufficient to justify their conviction by the Sessions Judge; but in regard to the 2nd & 3rd accused, it had reduced the sentence to transportation for life in consideration of their Youth & of their having played only a subordinate part in the murder.

It is the other two accused (1st & 4th) who now pray that the sentence of death passed on them may be set aside. Their memorial does not disclose any circumstance in their favour which was not present before the Chief Court when it disposed of their appeal.

21.7.83

The High Court has confirmed the Conviction of all the accused and Commuted the sentence of death in the Case of two of them. The other two (who are under Sentence of death) have now Submitted a Memorial to His Highness.

The following remarks are all that strike me as favouring the Memorialists; and I feel it unnecessary to say anything on the opposite side.

The Conviction is wholly based on Confessions made by the Prisoners. They are said to have Confessed once before the village officials &c, and once before the Committing Magistrate The first set of Confessions was made after the Police Officers Came into the village. The relatives of the deceased were accusing these men of the mur-

der from the beginning. It is therefore natural that the Police officers should begin to work on that clue. The accused were not at once arrested; and so the prohibition of S. 26 of the Evidence Act does not apply; but can it be said that the influence of the Police was altogether absent, when weighing the testimony afforded by such confessions? On this, Please see evidence of Peddanna, "an elderly man (accg to the Sess. Judge) who apparently Commands influence and respect among his fellow villagers", (P. 8 of the printed Record) who says that the Inspector asked for their help in investigating & adds: 'Accordingly I, Basavegauda, Sanbog Venkatagirigappa and Patel questioned the 1st accused about the murder. He at first denied all knowledge of it, but on our encouraging him to speak the truth, told us that he &c". It was not elicited clearly what

form this encouragement took; and it raises a serious doubt whether the provisions of S. 24 of the Act do not apply so as to render such Confession inadmissible.

The Confessions before the Magistrate however are apparently voluntary — except perhaps that the accused may have been under the same influence as made them Confess originally.

The ~~fa~~ Corroborative circumstances (such as discovery of Sugarcane chips chewed &c) are all of the same class as Confessions — as the discoveries were made on the accused showing the places; and if it is conceded that ~~th~~ enough influence was exercised to make the accused Confess to the crime, a far less degree of it might suffice to induce them to make these mi

not disclosures. The Sessions
Judge himself does not attach
much value to this part of
the evidence, as shown by his
remarks.

The alleged motive for the murder
also does not seem to be
strong enough to bring about
such an act.

~~The~~ One strong point
for the prosecution is that all
the proceedings were held so soon
after the event.

If circumstances such as
the above raise a doubt, perhaps
the accused should be spared the
extreme penalty.

The whole file of records
is submitted. 23.7.1903

To the Dewan,
through the 2nd. Councillor.

I do not think there is a fit
case for the Sovereign's prerogative
of mercy - all the 4 Prisoners
were rightly convicted - The sentence
passed on two of them was reduced to
transportation for life on the ground

23.7.03

112
23-7-03

chiefly of them being very young. This is no reason why the other two who planned the murder and led these two youths into it - "and [redacted] should be accorded a similar treatment. Dr [redacted] my humble opinion, there is no case for a mitigation of punishment. The Memorial may accordingly be rejected.

B Ellenborough
24-7-03

25/7/3

11724
25.7.03.

Submitted to His Highness.

The Sessions Judge has recorded a clear and well reasoned judgment in this case – and has overlooked no point of importance – A perusal of it leaves no doubt in my mind that the conviction is well supported by evidence and that the punishment is well merited – The Chief Court consisting of the Justices Ramasawmi Iyengar & Muttuswamy has closely examined the evidence and rightly upheld the conviction. They however commuted the sentence in the case of the 2nd & 3rd prisoners on the grounds of their youth and of their having acted under the overpowering influence of the 1st and 4th accused persons the present memorialists – I need only say with regard to this commutation that the

Sessions Judge had not overlooked
the circumstances relied upon
by the Judges of the High Court
but was of opinion that they
were not sufficient to justify
his passing any sentence other
than the extreme one of death.
It is not easy to say that he was
wrong - but more on this point
need not be said -

The memorialists do not
however evoke any feeling of
commiseration and I have no
hesitation in humbly recommend
the rejection of their memorial -
They richly deserve the extreme
penalty of the law.

26. VII. 03

Record of Case submitted for the orders of His Highness the Maharaja.

21

Subject.

Memorial of Ramadu and Battiga 1st and 4th accused in Kolar Sessions Case No 5 of 1902-03 praying that the Sentence of death passed upon them may be set aside.

Order.

I see no reason to interfere

KRM
31/7/03

931 order sent
31.VII.03

Draft-4/8/03
1-0W3
Draft submitted
4/8/03

19

In the Matter of a Memorial

addressed to His Highness the Maharaja by Ramudu and Bakkiga, prisoners in Kolar Sessions Case No. 5 of 1902-03 and in Criminal Appeal (Criminal Reference) case No. 195 of 1902-03 on the file of the Chief Court of Mysore, praying that the sentence of death passed on them may be set aside.

His Highness the Maharaja

has been pleased to pass the following

Order.

" I see no reason to interfere "

Dewan of Mysore.

Draft

3/8/03

3/8/03

11952
3.VIII.03

1 13

Bangalore 18th July 1903.

No 308 Judicial
11 Memo - From

J 10r

V. A. Rajaratna Mudaliar Esq;

Registrar, Chief Court of Mysore -

SECTION 605
FILE NO. 155 of 03
No. 1
SER. NO. 1

M. V. Nanjundayya Esq; Ba. a., Ba. L.,
Secretary to the Govt: of Mysore,
General and Revenue Departments

Sir,

I am directed to forward a Memorial addressed to H. H. the Maha-Rajah of Mysore by Ramoodoo and Balliga 1st and 4th accused in Kolar Sessions Case No: 5 of 1902-3 on the file of the Sessions Judge, Bangalore Division, and 1st and 4th appellants in Criminal Appeal No: 195 Criminal Referred Case No: 1 of 1902-3 on the file of this Court -

The Sessions Judge of Bangalore has been directed to suspend the sentence of

14

death passed on the Memorialists pending dis-
posal of their Memorial -

The entire record of the case
is herewith forwarded -

I have the honor to be
Sir,
Your most obedient Servant;

D Raattray Ahmud
Registrar

MM

In. Enclosure 1

His Highness Sree Krishna
Raja Wodeyar Bahadur
Maharaja of Mysore

The Humble Memorial of
Ramadu and Battiga condemned
to be hanged for the murder of
Thimmaraya in Kolar Sessions
Case No 5 of 1902—03.

Respectfully Sheweth.

(1) That your Memorialists
did not kill the deceased, and
both knew nothing about his
death.

(2) That the Police concocted
the case against them.

(3) That the Sessions Court
has convicted Your Memorialists
solely on alleged admissions and
circumstantial evidence, o

the Chief Court to confirmed
the Sentence of death though
there was clear doubt in the case
(4) That your Memorialists
and the deceased were in very
good terms, but the Police
intimidated the parents of
your Memorialists, who are
very old, ignorant and in their
dotage into saying that your
Memorialists were absent from
home on the night of the occurrence
and to admit that the exhibits
filed in Court belonged to
your Memorialists
(5) That the alleged statement
of the Police to the effect that
your Memorialist No 2 Bathia
had attracted attention to himself
by running away without any
reason and thus causing suspicion
is totally false, as a matter
of fact your Memorialist

was arrested a day after the occurrence and taken to the Patel's house where he had been soundly thrashed to admit the offence which he nevertheless declined to do and fearing that similar treatment would be accorded to him he really did run away the 2nd time the Police came to arrest your Memorialist. The Police therefore to serve their own ends alleged this fact deliberately suppressing the attendant circumstances.

(6) Your Memorialist-No. 2 Bath further begs your Highness to consider whether it is possible for a married woman with husband still alive to come before the Public, the Police Court and above all her husband Confess that she was in Criminal relation with your Memorialist and to consider how unless the Police tutored her and the Court

Commi...

Connived at this Treachery simply from fear of the Police Such glaring Statements could not have been made in the open Court

It is not unknown to Your Highness and to the general public that the Police to be free from their Departmental worry often get the innocent and the helpless Convicted letting go the real Culprits taking enormous illegal gratification, one Such is Your Memorialists.

(7) That the confessions were made whilst in custody of the Police under promises of pardon and were not admissable in evidence.

(8) That the facts alleged against Your Memorialists, do not prove that they committed murder and there is clearly a doubt in the case which Your Memorialists should have the benefit of.

Your Memorialists therefore humbly pray Your Highness to set aside the Sentence of death and

19

Passed on your Memorialists.

16

× Mark of Ramadu

: Mark of Battigu

In the Chief Court of Mysore at Bangalore

Wednesday, the 17th day of June 1903.

Present

Mr. justice A. Rangaswamy Iyengar, judge

and

Mr. justice G. H. Micklejohn, judge

Petition of Criminal appeal No 195 / Referred Case No 11 of 1902-03 against the conviction and sentence by the Sessions judge, Bangalore Division, under section 302 of the Indian Penal Code in Kolar Sessions Case No 5 of 1902-03.

Appellants

1. Ramadoo
2. Ramarajo
3. Chikka munigo
4. Batliga

(accused)

Judgment

In this case the four appellants Ramoodoo, Ramrajoo, Chikkamunigo and Batliga have been convicted of murdering one Thimmaraya, and have been sentenced to death by the Sessions judge, Bangalore Division.

2. The prisoners appeal on the grounds that they have been convicted on their uncorroborated confessions made while they were in custody of the Police and under promises of pardon.

3. One Thimmaraya was found on the morning of the 31st January last lying murdered and mutilated on his own threshing floor. The relatives of the deceased suspected that the murderers belonged to two or three families in the village, known as the 'new comers'.

4. Following up this clue, the Police eventually arrested the three first accused. The 4th accused attracted attention to himself by running away when he and the other villagers were being asked about the murder and he was also eventually arrested.

5. The learned judge has recorded somewhat too freely, what the accused said to the Police and others, when in Police Custody which is no evidence, but he is careful to point out in his

judgement that he has left all such statements out of consideration in coming to his decision in the case, and given weight only to the statements of the accused as recorded by the committing Magistrate.

6. Even these statements, having been retracted before the Sessions Court the learned Counsel for the defence argues to be no evidence. He says as they are not statements made before the Court by witnesses, they do not come under the definition of evidence as given in section 3 of act 1 of 1872 (The Evidence Act). But section 287 of the Criminal Procedure Code leaves no room for doubt on this point. It directs that 'the examination of the accused duly recorded by or before the committing Magistrate shall be tendered by the prosecution and read as evidence'.

7. All we have to consider is whether

whether these retracted statements are sufficiently corroborated by other evi-dence and by the circumstances of the case so as to leave no doubt of these being true. If they are the conviction of the accused is justified.

8. The first accused in his statement describes how, since the Pongal, he and some of the other accused had been conspiring to murder the deceased, as the deceased had got him and the second and third accused punished by the Patel and the villagers, how he and Bettiga, the 4th accused and the 2nd accused whom he had sent for, arranged to attack the deceased when he was by himself watching his threshing floor at night, and how he, the 2nd accused and 3rd accused joined Bettiga 4th accused after taking their meals, at his threshing floor. He then tells how they went and stole some sugarcane which they chewed until it was time to set about the attack

on

on Thimmaraya, when they buried the re-
mains of the chewed cane and how having
ascertained that their victim was alone, they
fell upon him when he was asleep,
strangled and mutilated him: how the
accused then at the suggestion of the 4th
accused took some of the grain the de-
ceased had been watching and scattered
it about, so as to make people think
that the crime had been committed by
thieves, who had come to steal the grain,
how the third accused's head cloth which
had got some blood stains on it was
filled with stones and sunk in water
and how they got back unobserved
to the village.

9. This statement is corroborated
by the depositions of the 3rd, 4th and 5th
witnesses for the prosecution as regards
the reason this man had for hating
the deceased.

10. As regards the chewing of the

sugarcane. The 5th and 6th witnesses prove that the accused showed them the very spot where they had cut the canes and the chewed remains of the canes, which they had eaten covered up in the sand. They also speak to the accused shewing them where the cloth had been sunk in the water. The third accused's own father recognizes the cloth as being his son's. With reference to this cloth, it appears that, when taken out of the water, there were no blood stains found on it. It is to be remembered, however, that the blood was quite fresh when the cloth was put into the water and that the cloth having been in the water three days soaking, the stain may have washed out. Then there is the medical evidence which corroborates the accused's narrative so to deceased's having been strangled and his testicles cut off, and the prosecution witnesses prove also the finding of the grain scattered about as described by this accused. Of course the 1st accused

now says that this statement was made because the police and others beat him, and threw chilly powder into his eyes. But this statement was made in open Court to the Magistrate and is far too much in detail and the details too well corroborated to have been concocted.

11. The 2nd accused describes how Ramdoo, 1st accused, asked him to join Battiga and himself in getting rid of Thiruvaroya. He gives the same description as the 1st accused of the murder and admits pointing out the chewed cane and the cloth in the water. He, at first, asserted that he had himself nothing against the deceased but had joined in the crime, merely to please Ramudu, but later on he admits that he had made overtures to the deceased's wife, who complained to her husband, who told the Patel, who scolded him and had him beaten. This is

corroborated by the depositions of the wife; 3rd witness and Patel, 4th witness.

12 This man also retracts his statement before the Sessions judge. His statement as to why he confessed is somewhat different from the 1st accused's. He says the police duffadar beat him and put chilly powder in his eyes but that the Patel interceded, saying he would get them to confess and that he confessed on his promise of getting them released and that he did not know what he confessed. How absurd this statement is, is evident when it is remembered that the statement was made in open Court to Mr. Skinner, the Magistrate and recorded by him. It would be impossible for anyone in Court to even hint to the prisoner what he should say and if he had been tortured into giving a false statement to the Police, he had only to say so to the Magistrate. There was no reason why he should repeat a false statement to his own hurt before the Court.

13. The 3rd accused in his statement admits mutilating the deceased on Bettiga, 4th accused, telling him to do so He says he gave the knife, he did this with to the Police and that the cloth, the one got out of the water is his. He says the cloth fell off during the murder and got stained in the blood in two places, so the 4th accused put stones in it and sank it in the water. This statement is corroborated by the production of the cloth and by the evidence of his father, the 9th witness who identifies the cloth as his son's. His father also says that this accused in the early morning after the murder came and took his own head cloth, (Ex: 8) and he allowed him to do so, though before the third accused had been wearing cloth Ex: 3 The father does not recognize the knife produced by this accused as his son's but the mother, the 10th witness, does.

14. Even before the Sessions Court the 2nd accused says that he took his cloth

from his father, though he retracts all the rest of his statement, saying that he was cruelly tortured and that he does not know what he deposed and what was recorded. But as already pointed out in connection with the 1st and 2nd accused's statements, this statement was recorded in open Court, where no one but the accused himself would be allowed to speak or suggest anything to him when he was making his statement.

15. The 4th accused's statement is that the 1st accused pressed him to come and help him to murder Thimmaraya, that he refused to do so but finally consented that he and the 1st accused went to his threshing floor where they were joined by the 2nd and 3rd accused. He gives practically the same account of the murder as the other accused. He admits telling the other accused to put the third accused's cloth into the water and he also admits that he had been keeping the deceased's wife for the last

four years. He also says that, when he was being questioned about the murder, he suddenly made off, but came back of his own accord two days afterwards and confessed everything to Pedanna and the Shanbogue, who took him to the Sircar people.

16. This statement is corroborated by the 3rd prosecution witness who admits that she was the mistress of the 4th accused and used to meet him when her husband was absent. The Patel ~~was~~ also deposes that this woman's relations with the 4th accused was a matter of common talk in the village. The Patel also proves the truth of the statement that this man jumped over the prickly pear hedge and ran away when he was being asked about the murder and the 5th witness Pedana and the 6th witness the Shanbogue, speak to the fact of fourth accused coming back to the village in the night and confessing his participation in the crime to them and to their taking

him next morning to the Police, who had left the village.

17. This man before the Sessions Court says he was beaten by the Police, so ran away, and that when he returned next night and went to Sedanna and the Shanbogue, they advised him to depose as the other accused deposed and that he does not know what was recorded. There no reason to believe this. It is impossible to believe that a man would without any reason make a false statement to the Shanbogue and Sedanna when there were no Police present and repeat the same to the committing Magistrate, simply to oblige the Shanbogue.

18. We think the evidence is sufficient amply to justify the conviction of the accused by the Sessions judge of murder.

19. The only question which remains is, whether it is necessary to confirm the

the extreme sentence of law passed on all four accused.

20. After giving the matter our most careful consideration, we are of opinion that the sentence of death passed on the 2nd and 3rd accused, who are, according to the proceedings of the Sessions judge, youths of 20 and 17 years of age, may be altered to transportation for life, as though they did take an active part in the murder and the 3rd accused a cruel part, it is clearly shown that it was the 1st and 4th accused alone who planned the murder and let these two youths into it and that what they did, they did under their orders.

21. We confirm the sentence of death passed on the 1st accused Ramadoo and the 4th accused Batliya, but we set aside the

the sentence of death passed on the
2nd accused Ramarajoo and the 3rd
accused Chikkahuniga and direct
that the said Ramarajoo and Chikka
huniga be transported for life

A true Copy

[illegible]

~~the~~ Registrar

Mitu

2 35

OFFICE OF THE GOVERNMENT OF MYSORE.

No 336 Dated Bangalore, 7th August 1903

From

The Secretary to the Government of Mysore.

To

The Registrar of the Chief Court of Mysore.

SECTION 65
155 etc.
FILE NO.
SERIAL NO. 2

SIR,

I am directed to forward herewith for information of the Judges of the Chief Court and for communication to the prisoner Ramudu and Batdiga, undergoing sentence of death in the Bangalore Central Jail, copy of order passed by H. H. the Maharaja Regent of Mysore, on the prisoner's memorial praying for reprieve declining to interfere with the sentence passed on the

2. The entire records received with your letter No. 308 dated 18th July 1903 are herewith returned.

I have the honor to be,

SIR,

Your most obedient servant,

Draft.

General Secretary.